

**UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK**

THE CHARTER OAK FIRE INSURANCE COMPANY,

Plaintiff,

-against-

HDI-GERLING AMERICA INSURANCE COMPANY,

Defendant.

Case No. 1:24-cv-06322-JMF

**NOTICE OF MOTION**

PLEASE TAKE NOTICE that upon the accompanying Declaration of Lisa Szczepanski dated February 28, 2025, and Exhibits attached thereto, Declaration of Janine Paloscio dated February 27, 2025, and Exhibits attached thereto, the Stipulation and Order dated February 18, 2025, and Exhibits attached thereto, the accompanying Memorandum of Law, the accompanying Statement of Material Facts Pursuant to Local Civil Rule 56.1, and the pleadings and prior proceedings had herein, the undersigned, on behalf of Plaintiff, The Charter Oak Fire Insurance Company (“Charter Oak”), will move before the Honorable Jesse M. Furman, United States District Judge, at the United States Courthouse located at 40 Centre Street, New York, New York, for an Order, pursuant to Federal Rule of Civil Procedure 56:

- (1) Declaring that (a) Defendant, HDI-Gerling America Insurance Company (“HDI”), has a duty to defend Dukane Fabrics Int’l., Inc. (“Dukane”) and Crale Realty LLC (“Crale”) in an underlying personal injury action, *Mark Cascarella, et ano. v. Crale Realty LLC, et al.*, pending in the Supreme Court of the State of New York, County of New York, Index No. 153300/2018 (the “Underlying Action”); (b) HDI has a duty to indemnify Dukane and Crale in the Underlying Action; (c) HDI’s coverage obligations to Dukane and Crale with respect to the Underlying Action are primary; and (d) Charter Oak’s coverage obligations are excess to those of HDI with respect to the Underlying Action;
- (2) Granting an award in favor of Charter Oak against HDI for all sums Charter Oak has paid in defending Dukane and Crale in the Underlying Action, plus interest;
- (3) Scheduling an inquest on damages; and
- (4) Granting such other and further relief as the Court deems just and proper.

PLEASE TAKE FURTHER NOTICE that, pursuant the Order dated January 29, 2025, any papers in opposition to this motion shall be served no later than March 28, 2025.

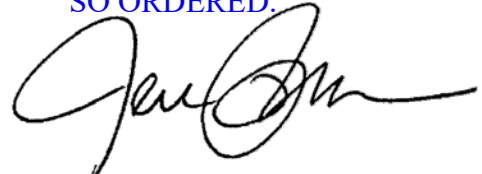
Dated: New York, New York  
February 28, 2025

USERY & ASSOCIATES

By: /s/Lisa Szczepanski  
Lisa Szczepanski  
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In light of Plaintiff's motion, the pretrial conference scheduled for April 1, 2025, is hereby ADJOURNED *sine die*.

SO ORDERED.

A handwritten signature in black ink, appearing to read "J. M. Jones", is written over the "SO ORDERED." text.

March 3, 2025